

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of plaintiff for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the motion, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. As a result, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Additionally, the Court has reviewed the complaint and will dismiss it pursuant to Fed.R.Civ.P. 12(h)(3).

The Complaint

Plaintiff brings this action seeking review of a denial of benefits by the Missouri Workers' Compensation Division of the Missouri Department of Labor and Industrial Relations for injuries sustained at his workplace. Under Fed.R.Civ.P. 12(h)(3), the Court is required to dismiss an action if it appears that subject matter jurisdiction is lacking.

The Missouri Workers' Compensation Act ("the Act") provides the exclusive rights and remedies for claims involving workplace injuries sustained by a worker in the course and scope of employment. Wright v. St. Louis Produce Market, 43 S.W.3d 404, 414 (Mo.Ct.App.2001). And the Labor and Industrial Relations Commission has the exclusive jurisdiction to determine whether an employee's injuries occurred as a result of the employee's employment. Hannah v. Mallinckrodt, Inc., 633 S.W.2d 723 (Mo. Banc 1982). The decision of the Department of Labor to grant or deny compensation is final and is not subject to review by this Court. See Mo.Rev.Stat. § 287.120. As a result, this Court lacks subject matter jurisdiction over the complaint.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because this case is subject to dismissal for lack of subject matter jurisdiction.

An appropriate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 10th day of November, 2010.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE